

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2634

Introduced by Assembly Member ~~Furutani~~ Torrico

February 22, 2008

An act to amend Sections 37220, 45203, 79020, and 88203 of the Education Code, and to amend Sections 6700 and 19853 of the Government Code, relating to public holidays.

LEGISLATIVE COUNSEL'S DIGEST

AB 2634, as amended, ~~Furutani~~ Torrico. Public holidays: ~~National Election Day~~ *election day*.

Existing law sets forth the holidays in this state for state agencies, the public schools, and community colleges, as well as the courts.

This bill would include the first Tuesday after the first Monday in November of each ~~even-numbered year, known as “National Election Day,”~~ *year in which a statewide or national election is to be held on that day*, in the list of holidays in this state.

Existing law relating to employer-employee relations in the public schools, community colleges, and state employment govern, through memoranda of understanding reached through collective bargaining, the status of paid holidays and the days upon which the community colleges may close.

This bill would provide that the status of the ~~“National Election Day”~~ *election day* holiday *established by this bill* would be subject to agreement in the memoranda of understanding for these purposes. The bill also would declare that it should not be construed to increase the number of paid state holidays in law or collective bargaining agreements in existence at the time this measure would become effective. The bill

would further declare that it should not be construed to require any school district to grant a paid holiday to any certificated or classified employee and that any conflict between the provisions of the bill and a memorandum of understanding reached pursuant to existing law should be resolved in favor of the memorandum of understanding without further legislative action.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 37220 of the Education Code is amended
2 to read:
3 37220. (a) Except as otherwise provided, the public schools
4 shall close on the following holidays:
5 (1) January 1.
6 (2) The third Monday in January or the Monday or Friday in
7 the week in which January 15 occurs, known as “Dr. Martin Luther
8 King, Jr. Day.” On the Friday preceding the day on which schools
9 are closed, schools shall include exercises commemorating and
10 directing attention to the history of the civil rights movement in
11 the United States and particularly the role therein of Dr. Martin
12 Luther King, Jr.
13 (3) The Monday or Friday of the week in which February 12
14 occurs, known as “Lincoln Day.” On the day that school is in
15 session prior to the day on which schools are closed for that
16 purpose, all public schools and educational institutions throughout
17 the state shall hold exercises in memory of Abraham Lincoln.
18 (4) The third Monday in February, known as “Washington Day.”
19 On the Friday preceding, all public schools and educational
20 institutions throughout the state shall hold exercises in memory of
21 George Washington.
22 (5) The last Monday in May, known as “Memorial Day.”
23 (6) July 4.
24 (7) The first Monday in September, known as “Labor Day.”
25 (8) The first Tuesday after the first Monday in November of
26 ~~each even-numbered year, known as “National Election Day.”~~
27 ~~each year in which a statewide or national election is to be held~~
28 ~~on that day.~~
29 (9) November 11, known as “Veterans Day.”

1 (10) That Thursday in November proclaimed by the President
2 as "Thanksgiving Day."

3 (11) December 25.

4 (12) All days appointed by the Governor for a public fast,
5 thanksgiving, or holiday, and all special or limited holidays on
6 which the Governor provides that the schools shall close.

7 (13) All days appointed by the President as a public fast,
8 thanksgiving, or holiday, unless it is a special or limited holiday.

9 (14) Any other day designated as a holiday by the governing
10 board of the school district.

11 (b) When any of the holidays on which the schools would be
12 closed falls on Sunday, the public schools shall close on the
13 Monday following.

14 (c) When any of the holidays on which the schools would be
15 closed falls on Saturday, the public schools shall close on the
16 preceding Friday, and that Friday shall be declared a state holiday.

17 (d) If any holiday on which the public schools are required to
18 close pursuant to subdivision (a) occurs under federal law on a
19 date different from the date specified in subdivision (a), the
20 governing board of any school district may close the public schools
21 of the district on the date recognized by federal law and maintain
22 classes on the date specified in subdivision (a).

23 (e) Except for Veterans Day, as designated in paragraph (9) of
24 subdivision (a), the governing board of a school district, by
25 adoption of a resolution, may revise the date upon which the
26 schools of the district close in observance of any of the holidays
27 identified in subdivision (a).

28 (f) The governing board of a school district may not request a
29 waiver of paragraph (9) of subdivision (a) from the state board.

30 (g) This section does not prohibit a school district from
31 authorizing its facilities or grounds to be used in accordance with
32 Section 38131 on those days on which the public schools are
33 closed.

34 SEC. 2. Section 45203 of the Education Code is amended to
35 read:

36 45203. All probationary or permanent employees that are a
37 part of the classified service shall be entitled to the following paid
38 holidays provided they are in a paid status during any portion of
39 the working day immediately preceding or succeeding the holiday:
40 January 1, February 12 known as "Lincoln Day," the third Monday

1 in February known as “Washington Day,” the last Monday in May
2 known as “Memorial Day,” July 4, the first Monday in September
3 known as “Labor Day,” November 11 known as “Veterans Day,”
4 that Thursday in November proclaimed by the President as
5 “Thanksgiving Day,” December 25, every day appointed by the
6 President, or the Governor of this state, as provided for in
7 subdivisions (b) and (c) of Section 37220 for a public fast,
8 thanksgiving or holiday, or any day declared a holiday under
9 Section 1318 or 37222 for classified or certificated employees.
10 School recesses during the Christmas, Easter, and mid-February
11 periods shall not be considered holidays for classified employees
12 who are normally required to work during that period. However,
13 this shall not be construed as affecting vacation rights specified in
14 this section.

15 Regular employees of the district who are not normally assigned
16 to duty during the school holidays of December 25 and January 1
17 shall be paid for those two holidays provided that they were in a
18 paid status during any portion of the working day of their normal
19 assignment immediately preceding or succeeding the holiday
20 period.

21 When a holiday listed in this section falls on a Sunday, the
22 following Monday shall be deemed to be the holiday in lieu of the
23 day observed. When a holiday listed in this section falls on a
24 Saturday, the preceding Friday shall be deemed to be the holiday
25 in lieu of the day observed. When a classified employee is required
26 to work on any of these holidays, he or she shall be paid
27 compensation, or given compensating time off, for such work, in
28 addition to the regular pay received for the holiday, at the rate of
29 time and one-half the employee’s regular rate of pay.

30 The provisions of Article 3 (commencing with Section 37220)
31 of Chapter 2 of Part 22 shall not be construed to in any way limit
32 the provisions of this section, nor shall anything in this section be
33 construed to prohibit the governing board from adopting separate
34 work schedules for the certificated and the classified services, or
35 from providing holiday pay for employees who have not been in
36 paid status on the days specified herein. Notwithstanding the
37 adoption of separate work schedules for the certificated and the
38 classified services, on any schoolday during which pupils would
39 otherwise have been in attendance but are not and for which
40 certificated personnel receive regular pay, classified personnel

1 shall also receive regular pay whether or not they are required to
2 report for duty that day.

3 In addition to the other paid holidays specified in this section,
4 the classified service may be entitled to a paid holiday on March
5 31 known as “Cesar Chavez Day,” a paid holiday on the fourth
6 Friday in September known as “Native American Day,” and a paid
7 holiday on the first Tuesday after the first Monday in ~~November~~
8 ~~of each even-numbered year known as “National Election Day,”~~
9 *November of each year in which a statewide or national election*
10 *is to be held on that day*, provided they are in a paid status during
11 any portion of the working day immediately preceding or
12 succeeding the holiday, if the governing board, pursuant to a
13 memorandum of understanding reached pursuant to Chapter 10.7
14 (commencing with Section 3540) of Division 4 of Title 1 of the
15 Government Code, agrees to the paid holiday.

16 This section shall apply to districts that have adopted the merit
17 system in the same manner and effect as if it were a part of Article
18 6 (commencing with Section 45240).

19 SEC. 3. Section 79020 of the Education Code is amended to
20 read:

21 79020. Except as otherwise provided, the community colleges
22 shall continue in session or close on specified holidays as follows:

23 (a) The community colleges shall close on January 1, the third
24 Monday in January, commencing in the 1989–90 fiscal year, known
25 as “Dr. Martin Luther King, Jr. Day,” February 12 known as
26 “Lincoln Day,” the third Monday in February known as
27 “Washington Day,” the last Monday in May known as “Memorial
28 Day,” July 4, the first Monday in September known as “Labor
29 Day,” November 11 known as “Veterans Day,” that Thursday in
30 November proclaimed by the President as “Thanksgiving Day,”
31 and December 25.

32 (b) Any contractual provision between any community college
33 district and its employees in effect on the effective date of the act
34 that adds this subdivision shall prevail over any conflict regarding
35 Dr. Martin Luther King, Jr. Day until the termination date of the
36 contract or upon termination by mutual agreement of the parties,
37 whichever occurs first.

38 (c) The Governor in appointing any other day for a public fast,
39 thanksgiving, or holiday may provide whether the community
40 colleges shall close on the day. If the Governor does not provide

1 whether the community colleges shall close, they shall continue
2 in session on all special or limited holidays appointed by the
3 Governor, but shall close on all other days appointed by the
4 Governor for a public fast, thanksgiving, or holiday.

5 (d) The community colleges shall close on every day appointed
6 by the President as a public fast, thanksgiving, or holiday, unless
7 it is a special or limited holiday.

8 (e) The community colleges shall continue in session on all
9 legal holidays other than those designated by or pursuant to this
10 section, and shall hold proper exercises commemorating the day.

11 (f) When any of the holidays on which the schools would be
12 closed fall on Sunday, the community colleges shall close on the
13 Monday following, except that (1) if Lincoln Day falls on a
14 Sunday, the community colleges may observe this holiday on the
15 preceding or following Friday, the following Monday, or the
16 following Tuesday, and maintain classes on the date specified in
17 subdivision (a) where applicable, or (2) if Lincoln Day falls on a
18 Monday, the community colleges may observe this holiday on the
19 preceding or following Friday, that Monday, or the following
20 Tuesday, and maintain classes on the date specified in subdivision
21 (a) where applicable.

22 (g) When any of the holidays on which the schools would be
23 closed, except Lincoln Day, fall on Saturday, the community
24 colleges shall close on the preceding Friday, and that Friday shall
25 be declared a state holiday.

26 (h) If any holiday on which the community colleges are required
27 to close pursuant to subdivision (a) occurs under federal law on a
28 date different than the date specified in subdivision (a), the
29 governing board of any community college district may close the
30 community colleges of the district on the date recognized by federal
31 law and maintain classes on the date specified in subdivision (a).

32 (i) When Veterans Day would fall on Tuesday, the governing
33 board of a community college district may close the colleges on
34 the preceding Monday, and maintain classes on the date specified
35 in subdivision (a). When Veterans Day would fall on Wednesday,
36 the governing board of a community college district may close the
37 colleges on either the preceding Monday or the following Friday,
38 and maintain classes on the date specified in subdivision (a). When
39 Veterans Day would fall on Thursday, the governing board of a
40 community college district may close the colleges on the following

1 Friday, and maintain classes on the date specified in subdivision
2 (a).

3 (j) When Lincoln Day would fall on Tuesday, the governing
4 board of a community college district may close the colleges on
5 the preceding Monday, the preceding Friday, or the following
6 Friday, and maintain classes on the date specified in subdivision
7 (a) where appropriate. When Lincoln Day would fall on
8 Wednesday, the governing board of a community college district
9 may close the colleges on the preceding Monday, the preceding
10 Friday, or the following Friday, and maintain classes on the date
11 specified in subdivision (a). When Lincoln Day would fall on
12 Thursday, the governing board of a community college district
13 may close the colleges on the preceding Friday or the following
14 Friday, and maintain classes on the date specified in subdivision
15 (a). When Lincoln Day falls on Saturday, the governing board of
16 a community college district may close the colleges on the
17 preceding Friday or the following Friday, and maintain classes on
18 the date specified in subdivision (a) where appropriate.

19 (k) In addition to the holidays specified in subdivision (a), a
20 community college may close on March 31 known as “Cesar
21 Chavez Day,” and the first Tuesday after the first Monday ~~in~~
22 ~~November of each even-numbered year known as “National~~
23 ~~Election Day,”~~ *in November of each year in which a statewide or*
24 *national election is to be held on that day*, if the governing board,
25 pursuant to a memorandum of understanding reached pursuant to
26 Chapter 10.7 (commencing with Section 3540) of Division 4 of
27 Title 1 of the Government Code, agrees to close the community
28 college for that purpose.

29 (l) In addition to the holidays specified in subdivision (a), a
30 community college may close on the fourth Friday in September
31 known as “Native American Day” if the governing board, pursuant
32 to a memorandum of understanding reached pursuant to Chapter
33 10.7 (commencing with Section 3540) of Division 4 of Title 1 of
34 the Government Code, agrees to close the community college for
35 that purpose.

36 (m) Nothing in this section is to be interpreted as authorizing a
37 community college district governing board to maintain community
38 colleges in its district for a lesser number of days during the college
39 year than the minimum established by law.

SEC. 4. Section 88203 of the Education Code is amended to read:

88203. All probationary or permanent employees who are part of the classified service shall be entitled to the following paid holidays if they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday: January 1, February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4, the first Monday in September known as "Labor Day," November 11 known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," December 25, every day appointed by the President, or the Governor of this state, as provided for in subdivisions (c) and (d) of Section 79020 for a public fast, thanksgiving or holiday, or any day declared a holiday under Section 1318 for classified or academic employees. College recesses during the Christmas and Easter periods shall not be considered holidays for classified employees who are normally required to work during that period, provided, however, that this shall not be construed as affecting vacation rights specified in this section.

Regular employees of the district who are not normally assigned to duty during the college holidays of December 25 and January 1 shall be paid for those two holidays if they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.

When a holiday herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday herein listed falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. When a classified employee is required to work on any of those holidays, he or she shall be paid compensation, or given compensating time off, for that work, in addition to the regular pay received for the holiday, at the rate of time and one-half his or her regular rate of pay.

Article 3 (commencing with Section 79020) of Chapter 8 of Part 48 shall not be construed to in any way limit this section, nor shall anything in this section be construed to prohibit the governing board from adopting separate work schedules for the academic and the classified services, or from providing holiday pay for

1 employees who have not been in paid status on the days specified
2 herein. Notwithstanding the adoption of separate work schedules
3 for the academic and the classified services, on any schoolday
4 during which students would otherwise have been in attendance,
5 but are not and for which faculty receive regular pay, classified
6 personnel shall also receive regular pay whether or not they are
7 required to report for duty that day.

8 In addition to the other paid holidays specified in this section,
9 the classified service may be entitled to a paid holiday on March
10 31 known as "Cesar Chavez Day," a paid holiday on the fourth
11 Friday in September known as "Native American Day," and a paid
12 holiday on the first Tuesday after the first Monday in ~~November~~
13 ~~of each even-numbered year known as "National Election Day,"~~
14 *November of each year in which a statewide or national election*
15 *is to be held on that day*, if they are in a paid status during any
16 portion of the working day immediately preceding or succeeding
17 the holiday, if the governing board, pursuant to a memorandum
18 of understanding reached pursuant to Chapter 10.7 (commencing
19 with Section 3540) of Division 4 of Title 1 of the Government
20 Code, agrees to the paid holiday.

21 This section shall apply to districts that have adopted the merit
22 system in the same manner and effect as if it were a part of Article
23 3 (commencing with Section 88060).

24 SEC. 5. Section 6700 of the Government Code is amended to
25 read:

26 6700. The holidays in this state are:

- 27 (a) Every Sunday.
- 28 (b) January 1.
- 29 (c) The third Monday in January, known as "Dr. Martin Luther
30 King, Jr. Day."
- 31 (d) February 12, known as "Lincoln Day."
- 32 (e) The third Monday in February.
- 33 (f) March 31, known as "Cesar Chavez Day."
- 34 (g) The last Monday in May.
- 35 (h) July 4.
- 36 (i) The first Monday in September.
- 37 (j) September 9, known as "Admission Day."
- 38 (k) The second Monday in October, known as "Columbus Day."
- 39 (l) The first Tuesday after the first Monday in November of
40 ~~each even-numbered year, known as "National Election Day."~~

1 *year in which a statewide or national election is to be held on that*
2 *day.*

3 (m) November 11, known as “Veterans Day.”

4 (n) December 25.

5 (o) Good Friday from 12 noon until 3 p.m.

6 (p) Every day appointed by the President or Governor for a
7 public fast, thanksgiving, or holiday.

8 Except for the Thursday in November appointed as Thanksgiving
9 Day, this subdivision and subdivisions (c) and (f) shall not apply
10 to a city, county, or district unless made applicable by charter, or
11 by ordinance or resolution of the governing body thereof.

12 If the provisions of this section are in conflict with the provisions
13 of a memorandum of understanding reached pursuant to Chapter
14 12 (commencing with Section 3560) of Division 4 of Title 1, the
15 memorandum of understanding shall be controlling without further
16 legislative action, except that if those provisions of a memorandum
17 of understanding require the expenditure of funds, the provisions
18 shall not become effective unless approved by the Legislature in
19 the annual Budget Act.

20 SEC. 6. Section 19853 of the Government Code is amended
21 to read:

22 19853. (a) Except as provided in subdivision (c), all employees
23 shall be entitled to the following holidays: January 1, the third
24 Monday in January, February 12, the third Monday in February,
25 March 31, the last Monday in May, July 4, the first Monday in
26 September, the second Monday in October, the first Tuesday after
27 the first Monday in November of each ~~even-numbered year~~ *year*
28 *in which a statewide or national election is to be held on that day*,
29 November 11, the day after Thanksgiving, December 25, the day
30 chosen by an employee pursuant to Section 19854, and every day
31 appointed by the Governor of this state for a public fast,
32 thanksgiving, or holiday.

33 If a day listed in this subdivision falls on a Sunday, the following
34 Monday shall be deemed to be the holiday in lieu of the day
35 observed. If November 11 falls upon a Saturday, the preceding
36 Friday shall be deemed to be the holiday in lieu of the day
37 observed. Any employee who may be required to work on any of
38 the holidays included in this subdivision, and who does work on
39 any of these holidays, shall be entitled to be paid compensation or
40 given compensating time off for that work in accordance with his

1 or her classification's assigned workweek group. For the purpose
2 of computing the number of hours worked, time when an employee
3 is excused from work because of holidays, sick leave, vacation,
4 annual leave, or compensating time off, shall be considered as time
5 worked by the employee.

6 (b) If the provisions of subdivision (a) are in conflict with the
7 provisions of a memorandum of understanding reached pursuant
8 to Section 3517.5, the memorandum of understanding shall be
9 controlling without further legislative action, except that if the
10 provisions of a memorandum of understanding require the
11 expenditure of funds, the provisions shall not become effective
12 unless approved by the Legislature in the annual Budget Act.

13 (c) Any employee, who is either excluded from the definition
14 of state employee in subdivision (c) of Section 3513, or is a
15 nonelected officer or employee of the executive branch of
16 government who is not a member of the civil service, shall be
17 entitled to the following holidays, with pay, in addition to any
18 official state holiday appointed by the Governor:

19 (1) January 1, the third Monday in January, February 12, the
20 third Monday in February, March 31, the last Monday in May,
21 July 4, the first Monday in September, the second Monday in
22 October, the first Tuesday after the first Monday in November of
23 ~~each even-numbered year~~ *year in which a statewide or national*
24 *election is to be held on that day*, November 11, Thanksgiving
25 Day, the day after Thanksgiving, December 25, and any personal
26 holiday chosen pursuant to Section 19854. The department head
27 or designee may require an employee to provide five working
28 days' advance notice before a personal holiday is taken, and may
29 deny use subject to operational needs.

30 (2) When November 11 falls on a Saturday, employees shall be
31 entitled to the preceding Friday as a holiday with pay.

32 (3) When a holiday, other than a personal holiday or November
33 11, falls on a Saturday, an employee shall, regardless of whether
34 he or she works on the holiday, only accrue an additional eight
35 hours of personal holiday credit per fiscal year for the holiday.
36 The holiday credit shall be accrued on the actual date of the holiday
37 and shall be used within the same fiscal year.

38 (4) When a holiday other than a personal holiday falls on
39 Sunday, employees shall be entitled to the following Monday as
40 a holiday with pay.

1 (5) Employees who are required to work on a holiday shall be
2 entitled to pay or compensating time off for this work in accordance
3 with their classification's assigned workweek group.

4 (6) Less than full-time employees shall receive holidays in
5 accordance with Department of Personnel Administration rules.

6 (d) (1) Any employee, as defined in subdivision (c) of Section
7 3513, may elect to receive eight hours of holiday credit for the
8 fourth Friday in September, known as "Native American Day," in
9 lieu of receiving eight hours of personal holiday credit in
10 accordance with Section 19854.

11 (2) It is not the intent of the Legislature, by the amendments to
12 this subdivision that add this paragraph, to increase the personal
13 holiday credit that an employee receives pursuant to Section 19854.

14 (e) This section shall become effective with regard to the March
15 31 holiday and the first Tuesday after the first Monday in
16 November of each ~~even-numbered year~~ *year in which a statewide*
17 *or national election is to be held on that day*, only when the
18 Department of Personnel Administration notifies the Legislature
19 that the language contained in this section has been agreed to by
20 all exclusive representatives, and the Department of Personnel
21 Administration authorizes this holiday to be applied to employees
22 designated as excluded from the Ralph C. Dills Act (Chapter 10.3
23 (commencing with Section 3512) of Division 4 of Title 1), and the
24 necessary statutes are amended to reflect this change.

25 SEC. 7. Nothing in this act shall be construed to increase the
26 total number of paid state holidays in law or in collective
27 bargaining agreements in existence on January 1, 2009.

28 SEC. 8. Notwithstanding any other provision of law, the
29 provisions of this act shall not be construed to require any school
30 district to grant a paid holiday to any certificated or classified
31 employee. If the provisions of this act are in conflict with the
32 provisions of a memorandum of understanding reached pursuant
33 to Chapter 10.7 (commencing with Section 3540) of Division 4 of
34 Title 1 of the Government Code, the memorandum of
35 understanding shall be controlling without further legislative action.